

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ALEX PALLET SYSTEMS, LLC,

Plaintiff,

v.

Case No. 13-13567

BIFWORLD, INC., *et al*,

Defendants.

**OPINION AND ORDER GRANTING PLAINTIFF'S MOTION FOR PARTIAL RELIEF
FROM JUDGMENT AND VACATING PREVIOUS
OPINION AND ORDER AND JUDGMENT**

On November 15, 2013, the court issued an "Opinion and Order Granting Defendants' Motion to Dismiss With Prejudice," and a separate judgment was entered in favor of Defendants on the same day. Plaintiffs move to amend or correct the order and judgment, arguing that the order should have only been issued with regard to Defendants Bifworld, Inc. and Young Min Lee, who are the only Defendants who have been served and appeared in this case, and that the dismissal of claims as to Defendants Bifworld and Lee should have been without prejudice. Plaintiff's motion will be granted.

Federal Rule of Civil Procedure 60(b)(1) allows the court to correct a final judgment or order if a mistake has been made. This is such an instance. Because Defendants Borneo International Furniture Company, Ltd., AL Pallet Co., Ltd, Seong Kee Kim, and Youn Joon Song have not yet been served with the Amended Complaint or appeared in this case, the court was without jurisdiction to adjudicate Plaintiff's claims

against these parties. They were inadvertently included in the court's order. Further, as to Defendants Bifworld and Lee, the dismissal of Plaintiff's claims should have been without prejudice as the court has not adjudicated the merits of Plaintiff's claims. The court appreciates Plaintiff promptly bringing these errors to the court's attention.

Plaintiff notes in its motion for partial relief from judgment that the process for serving Defendants Borneo International Furniture Company, Ltd., AL Pallet Co., Ltd, Seong Kee Kim, and Youn Joon Song is ongoing and that it has not yet received word whether these Defendants have been served. Plaintiff reported that it would file a motion to extend the summons against these Defendants by December 16, 2013, yet no such motion has been filed. To achieve clarity on this issue, the court will order Plaintiff to file a motion explaining the steps it has taken to serve the remaining Defendants and requesting an extension of summons, if necessary, by January 10, 2014. Accordingly,

IT IS ORDERED that Plaintiff's "Motion to Amend/Correct Judgment" [Dkt. # 19] is GRANTED.

IT IS FURTHER ORDERED that the "Opinion and Order Granting Defendants' Motion to Dismiss With Prejudice" [Dkt. # 17] and "Judgment in Favor of Defendants" [Dkt. # 18] are VACATED. An amended order will issue separately.

IT IS FURTHER ORDERED that the case is REINSTATED as to Defendants Borneo International Furniture Company, Ltd., AL Pallet Co., Ltd, Seong Kee Kim, and Youn Joon Song.

IT IS FURTHER ORDERED that Plaintiff file a motion explaining the steps it has taken to serve the remaining Defendants, and requesting an extension of summons, if necessary, by **January 10, 2014**.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: December 31, 2013

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, December 31, 2013, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522